

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

T. MATTHEW PHILLIPS, et al.,  
 Plaintiffs,  
 v.  
 BRYCE DUCKWORTH, et al.,  
 Defendants.

Case No. 2:20-cv-02345-RFB-NJK

**ORDER**

[Docket Nos. 21, 24]

Pending before the Court is Defendants' motion to stay discovery. Docket No. 21. The Court has considered Defendants' motion, Plaintiffs' response, and Defendants' reply. Docket Nos. 21, 25, 27. Also pending before the Court is the parties' joint proposed discovery plan. Docket No. 24. The matters are properly resolved without a hearing. *See* LR 78-1.

The Court has broad discretionary power to control discovery. *See Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). "The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). Discovery should proceed absent a "strong showing" to the contrary. *See, e.g., Turner Broadcasting Sys., Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997). In deciding whether to grant a stay of discovery, the Court is guided by the objectives of Fed. R. Civ. P. 1 to ensure a just, speedy, and inexpensive determination of every action. *Tradebay*, 278 F.R.D. at 602–03. The case law in this District makes clear that a stay of discovery is appropriate when: (1) the pending motion is potentially dispositive in nature and scope; (2) the potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken a "preliminary peek" at the merits of the potentially dispositive motion and is convinced that the plaintiffs will be unable to state a claim for relief. *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013).<sup>1</sup>

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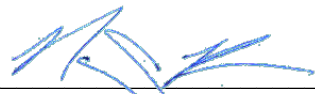
<sup>1</sup> Conducting the "preliminary peek" puts the undersigned in an awkward position because the assigned district judge who will decide the motion to dismiss may have a different view of its merits. *See Tradebay*, 278 F.R.D. at 603. The undersigned's "preliminary peek" at the merits of

1 Defendants ask the Court to stay discovery until their motion to dismiss is resolved. Docket  
2 No. 21 at 3; *see also* Docket Nos. 9 (motion to dismiss), 12 (corrected image). In examining the  
3 merits of the instant motion, the Court finds that a stay of discovery is appropriate in this case.

4 Accordingly, Defendants' motion to stay discovery, Docket No. 21, is hereby **GRANTED**.  
5 In the event resolution of Defendants' motion to dismiss does not result in termination of this case,  
6 the parties must file a joint proposed discovery plan no later than seven days after the entry of the  
7 order resolving the motion to dismiss. The parties' joint proposed discovery plan, Docket No. 24,  
8 is hereby **DENIED** as moot.

9 IT IS SO ORDERED.

10 Dated: June 16, 2021

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13 Nancy J. Koppe  
14 United States Magistrate Judge  
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27 that motion is not intended to prejudice its outcome. *See id.* As a result, the undersigned will not  
28 provide a lengthy discussion of the merits of the pending motion to dismiss in this instance. Nonetheless, the undersigned has carefully reviewed the arguments presented in the motion to dismiss and subsequent briefing.